

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

ASATA LOWE, )  
 )  
Petitioner, )  
 )  
v. ) NO. 3:11-0213  
 ) Judge Haynes/Bryant  
BRUCE WESTBROOK, )  
 )  
Respondent. )

TO: The Honorable William J. Haynes, Jr.

**REPORT AND RECOMMENDATION**

Petitioner Asata D. Lowe, a prisoner confined in state custody at the Turney Center Industrial Prison in Only, Tennessee, has filed his pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Docket Entry No. 1).

This case has been referred to the undersigned Magistrate Judge to hear and determine pretrial motions, including discovery matters, and for report and recommendation on any dispositive motion (Docket Entry No. 26).

From a review of the petition, it appears that petitioner's claims arise from his March 2000 convictions for first degree murder and especially aggravated robbery in the Circuit Court for Blount County, Tennessee, in Maryville. It further appears that petitioner Lowe has filed a previous petition for habeas corpus in the United States District Court for the Eastern District of Tennessee, which petition was denied. Lowe v. Fortner, 210 WL 1252432 (E.D. Tenn. March 23, 2010).

Under 28 U.S.C. § 2241(d), a habeas petitioner may file in either the judicial district where the petitioner was convicted or the judicial district where he is currently incarcerated. Therefore, venue for this action is proper in both the Eastern and Middle Districts of Tennessee. However, a petitioner's place of confinement may change from time to time while the district of his convictions will remain constant. For this reason, it has been the consistent practice of the federal courts of Tennessee to transfer habeas petitions to the judicial district in which the convicting court is located.<sup>1</sup>

In this case, it appears that the Eastern District is the situs of the petitioner's convictions. Accordingly, the undersigned Magistrate Judge **RECOMMENDS** that the Court direct the Clerk to transfer this action to the United States District Court for the Eastern District of Tennessee, Northern Division at Knoxville, Tennessee. 28 U.S.C. § 1404(a). The undersigned also **RECOMMENDS** that the Court **DENY** without prejudice any pending motions prior to transfer.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this

---

<sup>1</sup>The undersigned Magistrate Judge notes that Petitioner Lowe has previously filed at least two other pro se habeas petitions in this Court challenging his Blount County convictions: Docket Nos. 3:11-0100 and 3:11-0212. Both of these cases have been transferred to the U.S. District Court for the Eastern District of Tennessee, consistent with the recommendation herein.

Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation.

Thomas v. Arn, 474 U.S. 140 (1985), reh'q denied, 474 U.S. 1111 (1986).

**ENTERED** this 6<sup>th</sup> day of October, 2011.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge